

### REMARKS

By way of the present amendment, Applicants propose amending claims 79, 95, 96, 112, and 117 to improve form. No new matter has been added by way of the proposed amendment. Claims 79-117 are pending.

Applicants propose amending claims 79, 96, and 112 to recite that the method is performed by a processor of a device in order to explicitly tie the methods to machines and amending claims 95 and 117 to recite a computer readable memory device. M.P.E.P. § 1206 states that “[a]mendments filed after the filing of a notice of appeal, but prior to the date of filing a brief, may be admitted only to: (A) cancel claims; (B) comply with any requirement of form expressly set forth in a previous action; (C) present rejected claims in better form for consideration on appeal; or (D) amend the specification or claims upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.”

The proposed amendment puts claims 79, 96, and 112 in better form for consideration on appeal because the present amendment more clearly ties the process claims to another statutory class and, therefore, clearly directs the claims to statutory subject matter under 35 U.S.C. § 101. The proposed amendments put claims 95 and 117 in better form for consideration on appeal because the present amendment ensures that the claims are directed to a tangible device and, therefore, clearly directs the claims to statutory subject matter under 35 U.S.C. § 101.

**Conclusion**

In view of the foregoing amendments and remarks, Applicants respectfully request that the Examiner enter this amendment.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY & HARRITY, LLP

By: /Meagan S. Walling, Reg. No. 60112/  
Meagan S. Walling  
Registration No. 60,112

Date: February 13, 2009

11350 Random Hills Road  
Suite 600  
Fairfax, Virginia 22030  
(571) 432-0800

Customer Number: 44989